

FILED

MAR 3 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RON FREEMAN,)	No. C 03-5440 MJJ (PR)
Plaintiff,)	ORDER DENYING COSTS
v.)	
DEPUTY GUSTIN, et al.,)	
Defendants.)	

Plaintiff, formerly a California state prisoner, filed this pro se civil rights complaint pursuant to 42 U.S.C. § 1983. Plaintiff's requested voluntary dismissal of this matter at a pretrial conference on March 6, 2008, and defense counsel had no objection to such dismissal. Accordingly, plaintiff's request for voluntary dismissal was granted in an order dated March 10, 2008, and judgment was entered in favor of defendants.

On March 17, 2008 defendants filed a bill of costs. On that same date, defendants also filed a "Declaration in Support of Motion for Costs," although they have not filed such a motion. Defendants did not prevail at trial in this case; they prevailed because plaintiff's motion for voluntary dismissal was granted. Defendants informed the court that they had no objection to plaintiff's motion, and at the time they did not indicate that they would seek costs, express any interest in seeking costs, or condition their lack of objection to the dismissal of this matter on plaintiff's payment of costs. The court further notes that

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1 at the time this action was filed, and for much of the time it was pending, plaintiff was
2 incarcerated and indigent. As defendants have not filed a motion for costs, or cited any
3 authority that they are entitled to costs under the circumstances presented here, their
4 request for costs is DENIED.

5 IT IS SO ORDERED.

6 DATED: 3/30/2008

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8 MARTIN J. JENKINS
United States District Judge
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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

FREEMAN,

Plaintiff,

v.

RITCHIE ET AL et al,

Defendant.

Case Number: CV03-05440 MJJ

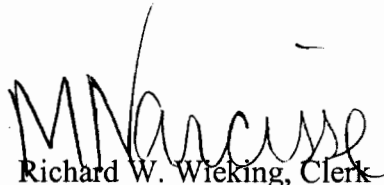
CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on April 2, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Ronald L. Freeman
190 Mill Street
San Rafael, CA 94901

Dated: April 2, 2008


Richard W. Wicking, Clerk
By: Monica Tutson, Deputy Clerk